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April 24, 2003

BY HAND

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Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

APR 24 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Attn: Media Bureau

Re: In the Matter of DirecTV Holdings, LLC, DIRECTV Enterprises, nc.
and USSB 11, Inc., Docket No. MB 03-82

Dear Ms. Dortch:

Transmitted on behalf of the State of Alaska are an original and two copies of the Comments of The State of Alaska in the above-referenced proceeding.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,


Robert M. Halperin

Enclosures

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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APR 24 2003

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)
)
DirecTV Holdings, LLC,)
DIRECTV Enterprises, Inc.) Docket No. MB 03-82
and USSB 11, Inc.)

COMMENTS OF THE STATE OF ALASKA

On February 6, 2003, the State of Hawaii filed a petition with the Federal Communications Commission seeking the imposition of administrative sanctions against DirecTV Holdings, LLC, DIRECTV Enterprises, INC. and USSB 11, Inc. (collectively "DIRECTV") alleging that DIRECTV has repeatedly and willfully violated the Commission's geographic service rules' in the operation of its direct broadcast satellite ("DBS) services. On March 20, 2003, MICROCOM, a distributor of DBS equipment and services, filed requests for a declaratory ruling concerning whether DBS service to Alaska and Hawaii is technically feasible from the 101° W.L. orbital location.² Pursuant to the Commission's request for comment in Public

¹ 47 C.F.R. § 25.148(c) (2002).

² MICROCOM states that DIRECTV is not providing service to Alaska and Hawaii that is comparable to the service it provides elsewhere, and asks the Commission to compel DIRECTV to explain why. Presumably, MICROCOM makes this request because it does not believe there is any legal or technical
(continued...)

Notice DA 03-862, March 25, 2003, the State of Alaska files these comments to highlight the important obligations of DBS providers to serve Alaska and Hawaii.

The obligations of a DBS licensee to serve Alaska and Hawaii are clear. DBS licensees acquiring authorizations after January 19, 1996, must provide DBS service to Alaska and Hawaii where such service is technically feasible from the authorized orbital location.³ The Commission has recently stated that a satellite is considered technically feasible of providing service to Alaska and Hawaii from any orbital location if the satellite's signal can be received by an earth station antenna in Alaska or Hawaii when that antenna is set at an elevation angle of more than 10 degrees.⁴

The Commission has found that earth station antenna located in Anchorage or Southeast Alaska could be set at a greater than ten degree elevation to receive DBS broadcasts from the 101° W.L., 110° W.L. and 119° W.L. orbital locations and that earth station antenna in Fairbanks could be set at a greater than ten degree elevation to receive DBS broadcasts from the 110° W.L. and 119° W.L. orbital locations. The Commission has held that “[w]ith respect to the 101° W.L., 110° W.L.

(...continued)

basis for DIRECTV's refusal to provide residents of Alaska and Hawaii with such comparable service.

³ 47 C.F.R. § 25.148(c).

⁴ Note, however, that the Commission has found that certain service providers have regularly broadcast to earth station antennas in Alaska set as low as five degrees. *See Policies and Rules for the Direct Broadcast Satellite Service*, 17 FCC Rcd. 11,331, 11,258-59, ¶ 55 & ns. 198, 199 (2002).

and 119° W.L. orbital locations, we recognize that it is possible to provide service to Hawaii and also to *significant portions of Alaska*. The fact that operators now offer service to Alaska and Hawaii from these three locations further demonstrates that it is technically feasible and economically reasonable to serve Alaska and Hawaii from the 101° W.L., 110° W.L. and 119° W.L. orbit locations.”⁵

With respect to the service that must be provided, the Commission declined to adopt detailed rules, but it did state that it expects “DBS operators will offer the same level of service to customers throughout all 50 states.”⁶ It also stated that “DBS operators *must* offer packages of services in Alaska and Hawaii that are reasonably comparable to what they offer in the contiguous 48 states.”⁷

DIRECTV, under license from the Commission, operates a DBS network with satellites in the 101° W.L., 110° W.L. and 119° W.L. orbital locations.⁸ Despite the extensive findings by the Commission that DBS service to Alaska and Hawaii is technically feasible from those orbital locations and DIRECTV’s commitments to providing service to Alaska,⁹ it appears that DIRECTV continues to provide service

⁵ *Id.* (Emphasis added.)

⁶ *Id.* at **11,364** ¶ 65.

⁷ *Id.* (Emphasis added.)

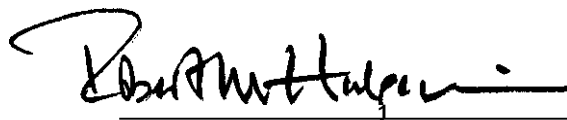
⁸ *See* Hawaii Petition at **2**.

⁹ *See Policies and Rules for the Direct Broadcast Satellite Service, supra*, at 11,362 ¶ 59 & n. 201.

Alaska and Hawaii raise serious questions of discrimination.¹⁴ Indeed, it is the emergence of satellite services that led the Commission to adopt its rate integration policy. The importance of this fundamental national policy should not be forgotten.

For these rules to be meaningful, they must be enforced, and the State of Alaska urges the Commission to do so.

Respectfully submitted,



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Date: April 24, 2003

¹⁴ See 47 U.S.C. § 254(g); *MTS and WATS Market Structure*, 81 F.C.C.2d 177, 192 (1980).

in the State of Alaska that is not reasonably comparable to the service it offers elsewhere.¹⁰

The Commission's geographic service rules are important for a variety of reasons. As the Commission stated in its recent Report and Order on DBS, it is important as a matter of competition policy for DBS to become an effective competitor to cable television in all 50 states.¹¹ But the importance of these rules goes beyond competition policy. The DBS geographic service rules reflect the policy judgment that all Americans should have comparable (though not necessarily identical) access to the services provided by DBS (and other Commission) licensees. In adopting the rule, the Commission stated that bringing DBS service to these states was an "important goal."¹² As former Commissioner Ness stated, "DBS provides a valuable service to the American public, and its benefits should extend to all geographic areas of our country."¹³ The Commission and Congress have recognized in an analogous context (adopting rate integration requirements for long distance carriers) that different service offerings and different rates of service for

¹⁰ See MICROCOM's Request for Declaratory Ruling on DBS Service to Alaska from 101 Degrees W.L.

¹¹ *Policies and Rules for the Direct Broadcast Satellite Service*, *supra*, at ¶ 65.

¹² *In the Matter of Revision of Rules and Policies for the Direct Broadcast Satellite Service*, Report and Order, 11 FCC Rcd. 9712 at ¶ 126 (1995).

¹³ *In re Application of MCZ Telecommunications Corp. and EchoStar 110 Corp.*, Order and Authorization, 16 FCC Rcd. 21,608 (1999) (Separate Statement of Commissioner Ness).

CERTIFICATE OF SERVICE

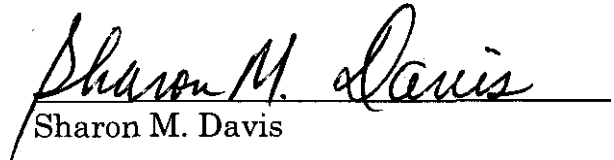
I hereby certify that a copy of the foregoing Comments of the State of Alaska in Docket No. MB 03-82 were served this 24th day of April 2003, by overnight and/or electronic mail to the following:

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